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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,782	06/18/2001	Takashi Udagawa	Q61741	1610

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EXAMINER

BROCK II, PAUL E

ART UNIT PAPER NUMBER

2815

DATE MAILED: 04/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/881,782

Applicant(s)

UDAGAWA, TAKASHI

Examiner

Paul E Brock II

Art Unit

2815

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☐ The proposed amendment(s) will not be entered because:  
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-7, 11-17, 19 and 20.

Claim(s) withdrawn from consideration: 8-10 and 18.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.  
10. ☐ Other: \_\_\_\_\_

*Tom Thomas*  
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Continuation of 2. NOTE: At least claim 1 has been amended beyond the USC 112 second paragraph rejections given in the final rejection. Therefore, at least some of the amendments to claim 1 require further search and/or consideration.

Continuation of 5. does NOT place the application in condition for allowance because: With regard to applicant's argument that "metal agent layers 45 are not in contact with the surface of the group-III nitride crystal layer as required by the rejected claims," it should be noted that the plurality of second conduction-type surface ohmic electrodes (45/13) of Okazaki are disposed on a surface of a region other than the projective region of the pad electrode (49) on the group-III nitride crystal layer (41) as required by the rejected claim. It is not clear why applicant contends that layer 41 of Okazaki does not meet the claimed recitation of a group-III nitride crystal layer. In fact, layer 41 clearly meets the limitations of the claimed invention. Therefore, applicant's arguments are not persuasive, and the rejection is proper.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). For example, applicant cites Okazaki as not teaching a window layer that covers and is in contact with the surface of the group-III nitride crystal layer on the entire projective region of the pad electrode. It should be noted that Lee is relied upon for this feature. Therefore, applicant's arguments are not persuasive, and the rejection is proper. With regard to applicant's argument that "the combination of Okazaki et al with Ming-Jiunn et al would not achieve the claimed light-emitting diode of the present invention," it should be noted that the rejection is based on Ming-Jiunn in view of Ohba, Lee, and Okazaki. Therefore, applicant's arguments are not persuasive, and the rejection is proper.

With regard to applicant's argument that Lee does not teach that surface conductive electrodes 58 contact the surface of a group-III crystal layer, it should be noted that the window layer 56 of Lee is equivalent the claimed group-III nitride crystal layer. Lee's conductive electrodes clearly contact the surface of the group-III nitride crystal layer. Therefore, applicant's arguments are not persuasive, and the rejection is proper.